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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080225267-91393-03]

RIN 0648-XA370

Western Pacific Pelagic Fisheries; Closure of the Hawaii
Shallow-set Pelagic Longline Fishery Due to Reaching the Annual
Limit on Sea Turtle Interactions

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS closes the shallow-set pelagic longline fishery
north of the Equator for all vessels registered under the Hawaii
longline limited access program. The shallow-set fishery has
reached the 2011 limit on physical interactions with sea
turtles, so the fishery must be closed for the remainder of the
calendar year. This action is necessary to comply with
regulations that govern the pelagic fisheries in the western
Pacific that establish maximum annual limits on the numbers of
interactions that occur between longline fishing gear and sea
turtles.

DATES: Effective 9:33 a.m. (0933 hrs) Hawaii-Aleutian Standard Time (HST) on November 18, 2011, through December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR, 808-944-2272.

SUPPLEMENTARY INFORMATION: The shallow-set pelagic longline fishery for swordfish in the western Pacific is managed according to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), developed by the Western Pacific Fishery Management Council, and implemented by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FEP appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.813(b)(1) establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions experienced by vessels registered with Hawaii longline limited access permits while engaged in shallow-set longline fishing, i.e., fishing that is directed at swordfish. There are two calendar-year annual limits on physical interactions, one for leatherback sea turtles (Dermochelys coriacea) set at 16, and one for loggerhead sea turtles (Caretta

caretta) set at 17. Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing. NMFS is required to maintain 100-percent observer coverage in the Hawaii shallow-set longline fishery.

The regulations at § 665.813(b)(2) prescribe that, as soon as the interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set component of the Hawaii-based longline fishery must be closed for the remainder of the calendar year, after giving permit holders and operators actual notice of the closure. Upon receiving actual notice from NMFS, fishermen are required to immediately remove all longline fishing gear from the water. Once the shallow-set fishery is closed, all vessels registered under Hawaii longline limited-access permits are prohibited from shallow-set longline fishing north of the Equator.

In accordance with § 665.813(b)(2), the Regional Administrator, NMFS Pacific Islands Region, has determined that the 2011 interaction limit of 16 leatherback turtles has been reached. Consequently, NMFS closed the shallow-set component of the Hawaii-based longline fishery at 9:33 a.m. (0933 hrs)

Hawaii-Aleutian Standard Time (HST) on November 18, 2011. This closure ends at midnight (2400 hrs) HST on December 31, 2011.

Classification

This action is required by § 665.813(b)(2) and is exempt from review under Executive Order 12866.

This action responds to the best available information obtained from the fishery. Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Closure of the fishery must be implemented immediately so that the number of allowable sea turtle interactions established under the Endangered Species Act is not exceeded, thereby imposing harm to the public interest in protecting these turtle species. For the

same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action.

Authority: 16 U.S.C. 1801 et seq.

Dated: November 18, 2011

Alan D. Risenhoover,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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